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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

MARK FULTZ, Individually,	:	
	:	
Plaintiff,	:	
	:	
vs.	:	Case No.
	:	
MAPLE MILLER REAL PROPERTIES, LLC,	:	Magistrate Judge
a Michigan Limited Liability Company,	:	
	:	
Defendant.	:	
_____	/:	

COMPLAINT
(Injunctive Relief Demanded)

Plaintiff, MARK FULTZ, Individually, on his behalf and on behalf of all other individuals similarly situated, (sometimes referred to as "Plaintiff"), hereby sues the Defendant, MAPLE MILLER REAL PROPERTIES, LLC, a Michigan Limited Liability Company (sometimes referred to as "Defendant"), for Injunctive Relief, and attorneys' fees, litigation expenses, and costs pursuant to the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. ("ADA").

1. Plaintiff, Mark Fultz, is an individual residing in Margate, FL, in the County of Broward.

2. Defendant's property, Maple Miller Center, is located at 1502-1526 North Maple Road, Ann Arbor, MI 48103, in Washtenaw County, Michigan.

3. Venue is properly located in the Eastern District of Michigan because venue lies in the judicial district of the property situs. The Defendant's property is located in and does business within this judicial district.

4. Pursuant to 28 U.S.C. § 1331 and 28 U.S.C. § 1343, this Court has been given original jurisdiction over actions which arise from the Defendant's violations of Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq. See also 28 U.S.C. § 2201 and § 2202.

5. Plaintiff Mark Fultz is a Florida resident, is sui juris, and qualifies as an individual with disabilities as defined by the ADA. Mr. Fultz suffered a stroke which resulted in paralysis, rendering the right side of his body immobile. He ambulates by means of a manual wheelchair and occasionally is able to walk short distances with the aid of a cane.

6. Mr. Fultz was raised in Michigan and has relatives, including his son, daughter, and grandchildren, in areas of suburban Detroit.

7. Mark Fultz has visited the property which forms the basis of this lawsuit and plans to return to the property to avail himself of the goods and services offered to the public at the property. The Plaintiff has encountered architectural barriers at the subject property. The barriers to access at the property have endangered his safety.

8. Defendant owns, leases, leases to, or operates a place of public accommodation as defined by the ADA and the regulations implementing the ADA, 28 CFR 36.201(a) and 36.104.

Defendant is responsible for complying with the obligations of the ADA. The place of public accommodation that the Defendant owns, operates, leases or leases to is known as Maple Miller Center, and is located at 1502-1526 North Maple Road, Ann Arbor, MI 48103.

9. Mark Fultz has a realistic, credible, existing and continuing threat of discrimination from the Defendant's non-compliance with the ADA with respect to this property as described but not necessarily limited to the allegations in paragraph 11 of this Complaint. Plaintiff has reasonable grounds to believe that he will continue to be subjected to discrimination in violation of the ADA by the Defendant. Mark Fultz desires to visit Maple Miller Center, not only to avail himself of the goods and services available at the property, but to assure himself that this property is in compliance with the ADA so that he and others similarly situated will have full and equal enjoyment of the property without fear of discrimination.

10. The Defendant has discriminated against the individual Plaintiff and members of the corporate Plaintiff organization by denying them access to, and full and equal enjoyment of, the goods, services, facilities, privileges, advantages and/or accommodations of the buildings, as prohibited by 42 U.S.C. § 12182 et seq.

11. The Defendant has discriminated, and is continuing to discriminate, against the Plaintiff in violation of the ADA by failing to, inter alia, have accessible facilities by January 26, 1992 (or January 26, 1993, if Defendant has 10 or fewer employees and gross receipts of \$500,000 or less). A preliminary inspection of Maple Miller Center has shown that violations exist. These violations, which were encountered or observed by Plaintiff, and which were verified by an ADA expert, include but are not limited to:

EXTERIOR

Initial Access and Disabled Parking

a. There is no accessible route from any public right of way in violation of the 2010 ADAAG, sections 206, 402, making it more difficult for Plaintiff and other disabled persons.

b. There is not sufficient number of disabled parking spaces per the Standards at 208, 502, and Plaintiff and other persons with disabilities are unable to walk extended distances to enter the restaurant.

c. There is not a van space in compliance with 502.6, making it more difficult for Plaintiff to park.

d. There is not compliant parking signage per 502 so many people unknowingly park in the disabled space when they shouldn't.

INTERIOR

e. There is no ADA compliant seating in any tenant space in violation of the 2010 ADAAG at 902, 902.2, 305, and 306, and this becomes embarrassing to say the least to the disabled, making it more difficult for Plaintiff to find compliant seating.

f. There is not sufficient dispersion of seating throughout the facility where dining surfaces are provided for consumption of food or drink for a person with a disability in violation of sections 226, 226.2, making it more difficult for Plaintiff to obtain seating.

RESTROOMS

g. The restrooms do not have ADA compliant signage as called for at 213, 601, so Plaintiff and other disabled persons are unable to find the restrooms without asking.

h. There are grab bars that do not comply with section 604.5, which makes it impossible for Plaintiff and other disabled persons to transfer onto or raise themselves up from the toilet.

i. There is not sufficient maneuvering room within restrooms as called for at 603, 604.3, making it more difficult for Plaintiff and other disabled individuals to maneuver in the restrooms..

j. There are mirrors in violation of section 603.3, and because they are too high, Plaintiff and other disabled people can't raise themselves to see.

k. There are sink pipes that are not fully insulated as required at 606, 606.5, resulting in bad burns to the legs of those using wheelchairs and often cuts to their legs and Plaintiff and other disabled persons don't know it because they have no feelings in their legs.

l. Failure to provide toilet paper dispensers in the proper location as called for at 604, 604.7, 309.4 resulting in Plaintiff and other disabled persons being unable to adequately reach the toilet paper, resulting in tremendous embarrassment and often hygiene problems.

m. Failure to provide the toilet flush controls on the wide side as called for at section 604.9.5, making it more difficult for Plaintiff and other disabled persons to flush the toilets.

POLICY & PROCEDURES

n. Failure to see that during winter, the snow plows stop piling the snow within the disabled parking space and access aisles, making it more difficult for Plaintiff and other disabled persons to park.

MAINTENANCE

o. The accessible features of the facility are not maintained, creating barriers to access for the Plaintiff, as set forth herein, in violation of 28 CFR §36.211.

12. The discriminatory violations described in paragraph 11 are not an exclusive list of the Defendant's ADA violations. Plaintiff require the inspection of the Defendant's place of public accommodation in order to photograph and measure all of the discriminatory acts violating the ADA and all of the barriers to access. The individual Plaintiff, the members of the Plaintiff group, and all other individuals similarly situated, have been denied access to, and have been denied the benefits of services, programs and activities of the Defendant's buildings and its facilities, and have otherwise been discriminated against and damaged by the Defendant because of the Defendant's ADA violations, as set forth above. The individual Plaintiff, the members of the Plaintiff group and all others similarly situated will continue to suffer such discrimination, injury and damage without the immediate relief provided by the ADA as requested herein. In order to remedy this discriminatory situation, the Plaintiff requires an inspection of the Defendant's place of public accommodation in order to determine all of the areas of non-compliance with the Americans with Disabilities Act.

13. Defendant has discriminated against the individual and corporate Plaintiff by denying them access to full and equal enjoyment of the goods, services, facilities, privileges, advantages and/or accommodations of its place of public accommodation or commercial facility

in violation of 42 U.S.C. § 12181 et seq. and 28 CFR 36.302 et seq. Furthermore, the Defendant continues to discriminate against the Plaintiff, and all those similarly situated by failing to make reasonable modifications in policies, practices or procedures, when such modifications are necessary to afford all offered goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities; and by failing to take such efforts that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services.

14. Plaintiff is without adequate remedy at law and is suffering irreparable harm. Plaintiff has retained the undersigned counsel and is entitled to recover attorney's fees, costs and litigation expenses from the Defendant pursuant to 42 U.S.C. § 12205 and 28 CFR 36.505.

15. Defendant is required to remove the existing architectural barriers to the physically disabled when such removal is readily achievable for its place of public accommodation that have existed prior to January 26, 1992, 28 CFR 36.304(a); in the alternative, if there has been an alteration to Defendant's place of public accommodation since January 26, 1992, then the Defendant is required to ensure to the maximum extent feasible, that the altered portions of the facility are readily accessible to and useable by individuals with disabilities, including individuals who use wheelchairs, 28 CFR 36.402; and finally, if the Defendant's facility is one which was designed and constructed for first occupancy subsequent to January 26, 1993, as defined in 28 CFR 36.401, then the Defendant's facility must be readily accessible to and useable by individuals with disabilities as defined by the ADA.

16. Notice to Defendant is not required as a result of the Defendant's failure to cure the violations by January 26, 1992 (or January 26, 1993, if Defendant has 10 or fewer employees

and gross receipts of \$500,000 or less). All other conditions precedent have been met by Plaintiff or waived by the Defendant.

17. Plaintiff is without adequate remedy at law and is suffering irreparable harm. Considering the balance of hardships between the Plaintiff and Defendant, a remedy in equity is warranted. Furthermore, the public interest would not be disserved by a permanent injunction. Plaintiff has retained the undersigned counsel and is entitled to recover attorney's fees, costs and litigation expenses from the Defendant pursuant to 42 U.S.C. § 12205 and 28 CFR 36.505 .

18. Pursuant to 42 U.S.C. § 12188, this Court is provided with authority to grant Plaintiff Injunctive Relief, including an order to require the Defendant to alter Maple Miller Center to make those facilities readily accessible and useable to the Plaintiff and all other persons with disabilities as defined by the ADA; or by closing the facility until such time as the Defendant cures its violations of the ADA. The Order shall further require the Defendant to maintain the required assessable features on an ongoing basis, and to require the institution of a policy that requires Defendant to maintain its accessible features.

WHEREFORE, Plaintiff respectfully request:

a. The Court issue a Declaratory Judgment that determines that the Defendant at the commencement of the subject lawsuit is in violation of Title III of the Americans with Disabilities Act, 42 U.S.C. § 12181 et seq.

b. Injunctive relief against the Defendant including an order to make all readily achievable alterations to the facility; or to make such facility readily accessible to and usable by individuals with disabilities to the extent required by the ADA; and to require the Defendant to make reasonable modifications in policies, practices or

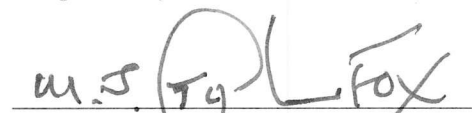
procedures, when such modifications are necessary to afford all offered goods, services, facilities, privileges, advantages or accommodations to individuals with disabilities; and by failing to take such steps that may be necessary to ensure that no individual with a disability is excluded, denied services, segregated or otherwise treated differently than other individuals because of the absence of auxiliary aids and services.

c. An award of attorney's fees, costs and litigation expenses pursuant to 42 U.S.C. § 12205.

d. Such other relief as the Court deems just and proper, and/or is allowable under Title III of the Americans with Disabilities Act.

Dated: 7/13/, 2018

Respectfully submitted,

Handwritten signature of M. J. Stephen Fox in black ink, featuring a stylized 'M', 'J', and 'S' followed by 'Fox'.

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